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with the publication of a notice of proposed rulemaking in the FEDERAL REGISTER. The notice shall state in summary form the required information described in § 750.31(c).

[81 FR 93636, Dec. 21, 2016]

§ 750.34 Confidentiality.

EPA encourages the submission of non-confidential information by petitioners and commentors. EPA does not wish to have unnecessary restrictions on access to the rulemaking record. However, if a petitioner or commentor believes that he can only state his position through the use of information claimed to be confidential, he may submit it. Such information must be separately submitted for the rulemaking record and marked “confidential” by the submitter. For the information claimed to be confidential, EPA will list only the date and the name and address of the petitioner or commentor in the public file, noting that the petitioner or commentor has requested confidential treatment. The information claimed to be confidential will be placed in a confidential file. A petitioner must also file a non-confidential petition with a non-confidential summary of the confidential information to be placed in the public file. Similarly, a commentor must supply a non-confidential summary of the information claimed to be confidential to be placed in the public file. Any information not marked as confidential will be placed in the public file. Information marked confidential will be treated in accordance with the procedures in part 2, subpart B of this title.

[44 FR 31560, Mar. 31, 1979. Redesignated at 81 FR 93636, Dec. 21, 2016]

§ 750.35 Final rule.

(a) [Reserved]

(b) EPA will grant or deny petitions under TSCA section 6(e)(3)(B) submitted pursuant to § 750.31.

(c) In determining whether to grant an exemption to the PCB ban, EPA will apply the two standards enunciated in TSCA section 6(e)(3)(B).

[81 FR 93636, Dec. 21, 2016]

PART 751—REGULATION OF CERTAIN CHEMICAL SUBSTANCES AND MIXTURES UNDER SECTION 6 OF THE TOXIC SUBSTANCES CONTROL ACT

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AUTHORITY: 15 U.S.C. 2605, 15 U.S.C. 2625(1)(4).

SOURCE: 84 FR 11435, Mar. 27, 2019, unless otherwise noted.

Subpart A—General Provisions

§ 751.1 Purpose.

This part sets forth requirements under section 6(a) of the Toxic Substances Control Act, 15 U.S.C. 2605(a), regulating the manufacture (including import), processing, distribution in commerce, use, or disposal of certain chemical substances and mixtures in order to address unreasonable risks to the extent necessary so that the chemical substance or mixture no longer presents such risk.

§ 751.5 Definitions.

The definitions in section 3 of the Toxic Substances Control Act, 15 U.S.C. 2602, apply to this part except as otherwise established in any subpart under this part.

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Act or *TSCA* means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

CASRN means Chemical Abstracts Service Registry Number.

EPA means the U.S. Environmental Protection Agency.

Person means any natural person, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity; any State or political subdivision thereof; any municipality; any interstate body; and any department, agency, or instrumentality of the Federal government.

§ 751.7 Exports and imports.

(a) *Exports.* Persons who intend to export a chemical substance identified in any subpart under this part are subject to the export notification provisions of section 12(b) of the Act. The regulations that interpret section 12(b) appear at 40 CFR part 707, subpart D.

(b) *Imports.* Persons who import a substance identified in any subpart under this part are subject to the import certification requirements under section 13 of the Act, which are codified at 19 CFR 12.118 through 12.127. See also 19 CFR 127.28.

§ 751.9 Enforcement and inspections.

(a) *Enforcement.* (1) Failure to comply with any provision of this part is a violation of section 15 of the Act (15 U.S.C. 2614).

(2) Failure or refusal to establish and maintain records or to permit access to or copying of records, as required by the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(3) Failure or refusal to permit entry or inspection as required by section 11 of the Act (15 U.S.C. 2610) is a violation of section 15 of the Act (15 U.S.C. 2614).

(4) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation.

(b) *Inspections.* EPA may conduct inspections under section 11 of the Act (15 U.S.C. 2610) to ensure compliance with this part.

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Subpart B—Methylene Chloride

§ 751.101 General.

This subpart sets certain restrictions on the manufacture (including import), processing, and distribution in commerce of methylene chloride (CASRN 75–09–2) for consumer paint and coating removal to prevent unreasonable risks of injury to health due to acute human lethality.

§ 751.103 Definitions.

The definitions in subpart A of this part apply to this subpart unless otherwise specified in this section. In addition, the following definitions apply:

Consumer paint and coating removal means paint and coating removal performed by any natural person who uses a paint and coating removal product for any personal use without receiving remuneration or other form of payment.

Distribute in commerce has the same meaning as in section 3 of the Act, except that the term does not include retailers for purposes of §§ 751.107 and 751.109.

Paint and coating removal means application of a chemical or use of another method to remove, loosen, or deteriorate any paint, varnish, lacquer, graffiti, surface protectants, or other coating from a substrate, including objects, vehicles, architectural features, or structures.

Retailer means a person who distributes in commerce or makes available a chemical substance or mixture to consumer end users, including e-commerce internet sales or distribution. Any distributor with at least one consumer end user customer is considered a retailer. A person who distributes in commerce or makes available a chemical substance or mixture solely to commercial or industrial end users or solely to commercial or industrial businesses is not considered a retailer.

§ 751.105 Consumer paint and coating removal.

(a) After November 22, 2019, all persons are prohibited from manufacturing, processing and distributing in commerce methylene chloride for consumer paint and coating removal.

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(b) After November 22, 2019, all persons are prohibited from distributing in commerce methylene chloride, including any methylene chloride containing products, for paint and coating removal to retailers.

(c) After November 22, 2019, all retailers are prohibited from distributing in commerce methylene chloride, including any methylene chloride containing products, for paint and coating removal.

§ 751.107 Downstream notification.

Each person who manufactures, processes, or distributes in commerce methylene chloride for any use after August 26, 2019 must, prior to or concurrent with the shipment, notify companies to whom methylene chloride is shipped, in writing, of the restrictions described in this subpart. Notification must occur by inserting the following text in the Safety Data Sheet (SDS) provided with the methylene chloride or with any methylene chloride containing product:

(a) SDS Section 1.(c): “This chemical/product is not and cannot be distributed in commerce (as defined in TSCA section 3(5)) or processed (as defined in TSCA section 3(13)) for consumer paint or coating removal.”

(b) SDS Section 15: “This chemical/product is not and cannot be distributed in commerce (as defined in TSCA section 3(5)) or processed (as defined in TSCA section 3(13)) for consumer paint or coating removal.”

§ 751.109 Recordkeeping.

(a) Each person who manufactures, processes, or distributes in commerce any methylene chloride after August 26, 2019 must retain in one location at the headquarters of the company, or at the facility for which the records were generated, documentation showing:

(1) The name, address, contact, and telephone number of companies to whom methylene chloride was shipped;

(2) A copy of the notification provided under § 751.107; and

(3) The amount of methylene chloride shipped.

(b) The documentation in paragraph (a) of this section must be retained for 3 years from the date of shipment.

Subparts C-D [Reserved]

Subpart E—Persistent, Bioaccumulative, and Toxic Chemicals

SOURCE: 86 FR 879, Jan. 6, 2021, unless otherwise noted.

§ 751.401 General.

(a) This subpart establishes prohibitions and restrictions on the manufacturing, processing, and distribution in commerce of persistent, bioaccumulative, and toxic chemicals in accordance with TSCA section 6(h), 15 U.S.C 2605(h).

(b) Unless otherwise specified in this subpart, prohibitions and restrictions of this subpart do not apply to the following activities:

(1) Distribution in commerce of any chemical substance, or any product or article that contains the chemical substance, that has previously been sold or supplied to an end user, *i.e.*, any person that purchased or acquired the finished good for purposes other than resale. An example of an end user is a consumer who resells a product they no longer intend to use or who donates an article to charity.

(2) Disposal of any chemical substance, or any product or article that contains the chemical substance, as well as importation, processing and distribution in commerce of any chemical substance or any product or article that contains the chemical substance for purposes of disposal.

(3) Manufacturing, processing, distribution in commerce, and use of any chemical substance, or any product or article that contains the chemical substance, for research and development, as defined in § 751.403.

§ 751.403 Definitions.

The definitions in subpart A of this part apply to this subpart unless otherwise specified in this section.

2,4,6-*TTBP* means the chemical substance 2,4,6-tris(tert-butyl)phenol (CASRN 732-26-3).

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2,4,6-TTBP oil and lubricant additives means any 2,4,6-TTBP-containing additive to a product of any viscosity intended to reduce friction between moving parts, whether mineral oil or synthetic base, including engine crankcase and gear oils and bearing greases. 2,4,6-TTBP oil and lubricant additive does not include hydraulic fluid and other oils whose primary purpose is not friction reduction.

Article means a manufactured item:

(1) Which is formed to a specific shape or design during manufacture,

(2) Which has end use function(s) dependent in whole or in part upon its shape or design during end use, and

(3) Which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, and that result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except that fluids and particles are not considered articles regardless of shape or design.

DecaBDE means the chemical substance decabromodiphenyl ether (CASRN 1163-19-5).

HCBD means the chemical substance hexachlorobutadiene (CASRN 87-68-3).

Lubricants and grease mean any product used to reduce friction, heat, or wear between moving or adjacent solid surfaces, or that enhance the lubricity of other substances.

PCTP means the chemical substance pentachlorothiophenol (CASRN 133-49-3).

PIP (3:1) means the chemical substance phenol, isopropylated phosphate (3:1) (CASRN 68937-41-7).

Product means the chemical substance, a mixture containing the chemical substance, or any object that contains the chemical substance or mixture containing the chemical substance that is not an article.

Research and Development means laboratory and research use only for purposes of scientific experimentation or analysis, or chemical research on, or analysis of, the chemical substance, including methods for disposal, but not for research or analysis for the development of a new product, or refinement

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of an existing product that contains the chemical substance.

[86 FR 879, Jan. 6, 2021, as amended at 86 FR 894, 909, 922, 932, Jan. 6, 2021]

§ 751.405 DecaBDE.

(a) *Prohibition*—(1) *General*. Except as provided in paragraphs (a)(2) and (b) of this section, all persons are prohibited from all manufacturing and processing of decaBDE or decaBDE-containing products or articles after March 8, 2021, and all persons are prohibited from all distribution in commerce of decaBDE or decaBDE-containing products or articles after January 6, 2022.

(2) *Phase-in of Prohibitions for Specific Uses of decaBDE and decaBDE-containing Products or Articles*. (i) After July 6, 2022, all persons are prohibited from all manufacturing, processing, and distribution in commerce decaBDE for use in curtains in the hospitality industry, and the curtains to which decaBDE has been added.

(ii) After January 6, 2023, all persons are prohibited from all processing and distribution in commerce of decaBDE for use in wire and cable insulation in nuclear power generation facilities, and decaBDE-containing wire and cable insulation.

(iii) After January 8, 2024, all persons are prohibited from all manufacturing, processing, and distribution in commerce of decaBDE for use in parts installed in and distributed as part of new aerospace vehicles, and the parts to which decaBDE has been added for such vehicles. After the end of the aerospace vehicles service lives, all persons are prohibited from all importing, processing, and distribution in commerce of aerospace vehicles manufactured before January 8, 2024 that contain decaBDE in any part. After the end of the aerospace vehicles service lives, all persons are prohibited from all manufacture, processing and distribution in commerce of decaBDE for use in replacement parts for aerospace vehicles, and the replacement parts to which decaBDE has been added for such vehicles.

(iv) After the end of the vehicles service lives or 2036, whichever is earlier, all persons are prohibited from all manufacture, processing and distribution in commerce of decaBDE for use in

replacement parts for motor vehicles, and the replacement parts to which decaBDE has been added for such vehicles.

(v) After the end of the pallets' service life, all persons are prohibited from all distribution in commerce of plastic shipping pallets that contain decaBDE and were manufactured prior March 8, 2021.

(b) *Exclusions to the Prohibition.* Processing and distribution in commerce for recycling of decaBDE-containing plastic from products or articles and decaBDE-containing products or articles made from such recycled plastic, where no new decaBDE is added during the recycling or production processes is not subject to the prohibition in paragraph (a) of this section.

(c) *Recordkeeping.* (1) After March 8, 2021, all persons who manufacture, process, or distribute in commerce decaBDE or decaBDE-containing products or articles must maintain ordinary business records, such as invoices and bills-of-lading related to compliance with the prohibitions, restrictions, and other provisions of this section.

(i) These records must be maintained for a period of three years from the date the record is generated.

(ii) These records must include a statement that the decaBDE or the decaBDE-containing products or articles are in compliance with 40 CFR 751.405(a).

(iii) These records must be made available to EPA within 30 calendar days upon request.

(2) The recordkeeping requirements in paragraph (c)(1) do not apply to the activities described in paragraphs (a)(2)(v) and (b) of this section.

[86 FR 894, Jan. 6, 2021]

§ 751.407 PIP (3:1).

(a) *Prohibitions—(1) General.* Except as provided in paragraphs (a)(2) and (b) of this section, all persons are prohibited from all processing and distributing in commerce of PIP (3:1), including in PIP (3:1)-containing products or articles after March 8, 2021.

(2) *Phase-in Prohibitions for Specific uses of PIP (3:1) and PIP (3:1)-containing products and articles.* (i) After January 6, 2025, all persons are prohibited from

all processing and distributing in commerce of PIP (3:1) for use in adhesives and sealants, PIP (3:1)-containing products for use in adhesives and sealants, and PIP (3:1)-containing adhesives and sealants.

(ii) After January 1, 2022, all persons are prohibited from all processing and distributing in commerce of PIP (3:1) for use in photographic printing articles and PIP (3:1)-containing photographic printing articles.

(b) *Exclusions.* The following activities are not subject to the prohibitions in paragraph (a) of this section.

(1) Processing and distribution in commerce of:

(i) PIP (3:1) for use in hydraulic fluids either for the aviation industry or to meet military specifications for safety and performance where no alternative chemical is available that meets U.S. Department of Defense specification requirements, PIP (3:1)-containing products for use in such hydraulic fluids, and PIP (3:1)-containing hydraulic fluids either for the aviation industry or to meet military specifications for safety and performance where no alternative chemical is available that meets U.S. Department of Defense specification requirements.

(ii) PIP (3:1) for use in lubricants and greases, PIP (3:1) containing products for use in lubricants and greases, and PIP (3:1)-containing lubricants and greases.

(iii) PIP (3:1) and PIP (3:1)-containing products for use in new and replacement parts for motor and aerospace vehicles, the new and replacement parts to which PIP (3:1) has been added for such vehicles, and the motor and aerospace vehicles that contain new and replacement parts to which PIP (3:1) has been added;

(iv) PIP (3:1) and PIP (3:1)-containing products for use as an intermediate in a closed system to produce cyanoacrylate adhesives;

(v) PIP (3:1) for use in specialized engine air filters for locomotive and marine applications, PIP (3:1) containing products for use in specialized engine air filters for locomotive and marine applications, and PIP (3:1)-containing specialized engine air filters for locomotive and marine applications;

(vi) Plastic for recycling from products or articles containing PIP (3:1), where no new PIP (3:1) is added during the recycling process; and

(vii) Finished products or articles made of plastic recycled from products or articles containing PIP (3:1), where no new PIP (3:1) was added during the production of the products or articles made of recycled plastic.

(2) [Reserved]

(c) *Prohibition on releases to water.* After March 8, 2021, all persons are prohibited from releasing PIP (3:1) to water during manufacturing, processing and distribution in commerce of PIP (3:1) and PIP (3:1) containing products, and all persons are required to follow all applicable regulations and best management practices for preventing the release of PIP (3:1) and PIP (3:1)-containing products to water during commercial use.

(d) *Recordkeeping.* (1) After March 8, 2021, persons who manufacture, process, or distribute in commerce PIP (3:1) or PIP (3:1)-containing products or articles must maintain ordinary business records, such as invoices and bills-of-lading, related to compliance with the prohibitions, restrictions, and other provisions of this section. These records must be maintained for a period of three years from the date the record is generated.

(2) These records must include a statement that the PIP (3:1), or the PIP (3:1)-containing products or articles, are in compliance with 40 CFR 751.407(a).

(3) These records must be made available to EPA within 30 calendar days upon request.

(4) The recordkeeping requirements in this paragraph (d)(1) do not apply to the activities described in paragraphs (b)(1)(vi) and (vii) of this section.

(e) *Downstream notification.* (1) Each person who manufactures PIP (3:1) for any use after March 8, 2021 must, prior to or concurrent with the shipment, notify persons to whom PIP (3:1) is shipped, in writing, of the restrictions described in this subpart.

(2) Each person who processes or distributes in commerce PIP (3:1) or PIP (3:1)-containing products for any use after July 6, 2021 must, prior to or concurrent with the shipment, notify per-

sons to whom PIP (3:1) is shipped, in writing, of the restrictions described in this subpart.

(3) Notification must occur by inserting the text in paragraphs (e)(3)(i) and (e)(3)(ii) in the Safety Data Sheet (SDS) or by including on the label of any PIP (3:1) or PIP (3:1)-containing product the label language in paragraph (e)(3)(iii):

(i) SDS Section 1.(c): “The Environmental Protection Agency prohibits processing and distribution of this chemical/product for any use other than: (1) In hydraulic fluids either for the aviation industry or to meet military specifications for safety and performance where no alternative chemical is available that meets U.S. Department of Defense specification requirements, (2) lubricants and greases, (3) new or replacement parts for motor and aerospace vehicles, (4) as an intermediate in the manufacture of cyanoacrylate glue, (5) in specialized engine air filters for locomotive and marine applications, and (6) in adhesives and sealants before January 6, 2025, after which use in adhesives and sealants is prohibited. In addition, all persons are prohibited from releasing PIP (3:1) to water during manufacturing, processing and distribution in commerce, and must follow all existing regulations and best practices to prevent the release of PIP (3:1) to water during the commercial use of PIP (3:1).”; and

(ii) SDS Section 15: “The Environmental Protection Agency prohibits processing and distribution of this chemical/product for any use other than: (1) In hydraulic fluids either for the aviation industry or to meet military specifications for safety and performance where no alternative chemical is available that meets U.S. Department of Defense specification requirements, (2) lubricants and greases, (3) new or replacement parts for motor and aerospace vehicles, (4) as an intermediate in the manufacture of cyanoacrylate glue, (5) in specialized engine air filters for locomotive and marine applications, and (6) in adhesives and sealants before January 6, 2025, after which use in adhesives and sealants is prohibited. In addition, all persons are prohibited from releasing

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PIP (3:1) to water during manufacturing, processing and distribution in commerce, and must follow all existing regulations and best practices to prevent the release of PIP (3:1) to water during the commercial use of PIP (3:1).”; or

(iii) Labeling: “The Environmental Protection Agency prohibits processing and distribution of this chemical/product for any use other than: (1) In hydraulic fluids either for the aviation industry or to meet military specifications for safety and performance where no alternative chemical is available that meets U.S. Department of Defense specification requirements, (2) lubricants and greases, (3) new or replacement parts for motor and aerospace vehicles, (4) as an intermediate in the manufacture of cyanoacrylate glue, (5) in specialized engine air filters for locomotive and marine applications, and (6) in adhesives and sealants before January 6, 2025, after which use in adhesives and sealants is prohibited. In addition, all persons are prohibited from releasing PIP (3:1) to water during manufacturing, processing and distribution in commerce, and must follow all existing regulations and best practices to prevent the release of PIP (3:1) to water during the commercial use of PIP (3:1).”

(4) The downstream notification requirements in this paragraph (e) do not apply to the activities described in paragraphs (b)(1)(vi) and (vii) of this section.

[86 FR 909, Jan. 6, 2021]

§ 751.409 2,4,6-TTBP.

(a) *Prohibitions.* (1) After January 6, 2026, all persons are prohibited from all distribution in commerce of 2,4,6-TTBP, at any concentration above 0.3 percent by weight, in containers with a volume less than 35 gallons.

(2) After January 6, 2026, all persons are prohibited from all processing and distribution in commerce of 2,4,6-TTBP oil and lubricant additives at any concentration above 0.3 percent by weight.

(b) *Recordkeeping.* After January 6, 2026, distributors of 2,4,6-TTBP must maintain ordinary business records, such as invoices and bills-of-lading, related to compliance with the prohibitions, restrictions, and other provisions

of this section. These records must be maintained for a period of three years from the date the record is generated.

§751.411 PCTP.

(a) *Prohibition.* After March 8, 2021, all persons are prohibited from all manufacturing and processing of PCTP or PCTP-containing products or articles, unless PCTP concentrations are at or below 1% by weight. After January 6, 2022, all persons are prohibited from all distribution in commerce of PCTP or PCTP-containing products or articles, unless PCTP concentrations are at or below 1% by weight.

(b) *Recordkeeping.* After March 8, 2021, manufacturers, processors and distributors of PCTP or PCTP-containing products or articles must maintain ordinary business records related to compliance with the prohibitions, restrictions and other provisions of this section, such as invoices and bills-of-lading. These records must be maintained for a period of three years from the date the record is generated.

[86 FR 922, Jan. 6, 2021]

§ 751.413 HCBd.

(a) *Prohibition.* After March 8, 2021, all persons are prohibited from all manufacturing, processing and distribution in commerce of HCBd and HCBd-containing products or articles, except for the following:

(1) Unintentional production of HCBd as a byproduct in the production of chlorinated solvents; and

(2) Processing and distribution in commerce of HCBd for burning as a waste fuel.

(b) *Recordkeeping.* After March 8, 2021, manufacturers, processors and distributors of HCBd or HCBd-containing products or articles must maintain ordinary business records related to compliance with the prohibitions, restrictions and other provisions of this section, such as invoices and bills-of-lading. These records must be maintained for a period of three years from the date the record is generated.

[86 FR 932, Jan. 6, 2021]